IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

WRIT PETITION NO. 1086 OF 2004

Vengurle Municipal Council.. .... Petitioner.
Versus
The State of Maharashtra & Anr.. ... Respondents.

Mrs. S. A. Mudbidri for the Petitioner.

Mr. R. D. Rane, Addl. Government Pleader
for Respondent Nos.1 and 2.

CORAM : R. M. LODHA &
NARESH H. PATIL, JJ.

DATED : 7TH AUGUST, 2006.

P.C. :

The petitioner is Vengurle Municipal Council. It seeks direction that respondent no.2, namely, The Zilla Parishad, Sindhudurg, be directed to pay to the petitioner the necessary rent for its use and occupation of school buildings built and owned by the petitioner. The said two buildings are situated at Survey No.38, Vengurle and are in occupation of the School run by respondent no.2 since 1st October, 1989.

2. That the rent for the said School is payable by Zilla Parishad, Sindhudurg, to the petitioner is admitted in reply affidavit. It is stated that earlier

stand of respondent no.2 was that they are not entitled to pay any rent to the petitioner but in view of the judgment of this Court in Writ Petition No. 3608 of 2000 (Rajapur Municipal Council v/s The State of Maharashtra & others) dated 29th August, 2002, the respondent no.2 (The Zilla Parishad, Sindhudurg) is ready and wiling to pay the appropriate rent to the petitioner but the amount of monthly rent claimed by the petitioner is exorbitant.

3. In view of the reply affidavit filed by the Zilla Parishad, Sindhudurg, the controversy only remains in respect of the quantum of rent. In our considered view, the rate of rent payable by respondent no.2 to the petitioner for the said school must be fixed by the Executive Engineer, Public Works Division, Sawantwadi.

4. We, accordingly, dispose of the writ petition by the following order:

(a) It is declared that the Zilla Parishad, Sindhudurg, is liable to pay rent to the petitioner for use and occupation of primary school situated at Survey No.38, Vengurle.

(b) The rate of rent shall be fixed by the Executive Engineer, Public Works Department, Sawantwadi. In this connection, the petitioner and respondent no.2 are directed to attend the Office of the Executive Engineer, Public Works Department, Sawantwadi on 1st September, 2006 with all relevant documents.

(c) The Executive Engineer, Public Works Department, Sawantwadi, shall fix the rent of the said building on year to year basis since 1st October, 1989.

(d) The arrears of rent shall be paid by the Zilla Parishad, Sindhudurg, to the petitioner in three equal instalments. First of such instalment shall be paid within one month of the fixation of rent by Executive Engineer, Public Works Department, Sawantwadi. The second instalment shall be payable within six months of the first instalment and the third instalment shall be payable within six months of second instalment.

5. With the above directions, writ petition is disposed of.

Sd/-

(R. M. LODHA, J.)

Sd/-

(NARESH H. PATIL, J.)